

*SC NAACP v. Alexander,*  
D.S.C. Case No. 3:21-cv-03302-MGL-TJH-RMG

# EXHIBIT 3

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION  
CIVIL ACTION NO. 3:21-cv-03302-JMC-TJH-RMG

THE SOUTH CAROLINA STATE )  
CONFERENCE OF THE NAACP, )

and )

TAIWAN SCOTT, on behalf of )  
himself and all other similarly )  
situated persons, )

Plaintiffs, )

v. )

HENRY D. MCMASTER, in his )  
official capacity as Governor )  
of South Carolina; THOMAS C. )  
ALEXANDER, in his official )  
capacity as President of the )  
Senate; LUKE A. RANKIN, in his )  
official capacity as Chairman )  
of the Senate Judiciary )  
Committee; JAMES H. LUCAS, in )  
his official capacity as Speaker )  
of the House of Representatives; )  
CHRIS MURPHY, in his official )  
capacity as Chairman of the )  
House of Representatives )  
Judiciary Committee; WALLACE )  
H. JORDAN, in his official )  
capacity as Chairman of the )  
House of Representatives )  
Elections Law Subcommittee; )  
HOWARD KNAPP, in his official )  
capacity as interim Executive )  
Director of the South Carolina )  
State Election Commission; JOHN )  
WELLS, Chair, JOANNE DAY, )  
CLIFFORD J. EDLER, LINDA MCCALL, )  
and SCOTT MOSELEY, in their )  
official capacities as members )  
of the South Carolina Election )  
Commission, )

Defendants. )

**VIDEO CONFERENCE  
DEPOSITION**

**OF**

**BENJAMIN HABER FIFIELD**

1 Q. Okay. Did you ever speak to anyone at the South  
2 Carolina State Election Commission about that  
3 process?

4 A. I don't recall speaking to anybody at the South  
5 Carolina State Election Commission.

6 Q. Okay. And later on in this email it says -- and  
7 later on in this email it mentions racial bloc  
8 voting analyses. Can you explain what a racial bloc  
9 voting analyses is?

10 **BY MR. JONES:**

11 Objection; calls for expert opinion, form. You  
12 can answer.

13 **WITNESS ANSWERS:**

14 A. Sure. A racial bloc voting analyses is a type of  
15 statistical analysis typically used to support --  
16 typically used to support the Gingles criteria in  
17 voting rights cases, but not always. And the point  
18 is to measure the degree of polarization in vote  
19 choice by different groups.

20 **EXAMINATION RESUMED BY MR. PARENTE:**

21 Q. Okay. Do you know how to conduct a racial bloc  
22 voting analysis?

23 A. I do, yes.

24 Q. Did you conduct one on South Carolina this  
25 redistricting cycle?

1 A. Can I speak to my attorney about questions of  
2 privilege?

3 Q. Sure.

4 (WHEREUPON, THERE WAS A PAUSE IN THE PROCEEDINGS.)

5 **EXAMINATION RESUMED BY MR. PARENTE:**

6 Q. Dr. Fifield, my question was did you perform a  
7 racial bloc voting analysis geared at South Carolina  
8 during this redistricting cycle?

9 **BY MR. JONES:**

10 Objection; attorney/client privilege, work  
11 product, First Amendment privilege. You can answer  
12 the question yes or no.

13 **WITNESS ANSWERS:**

14 A. Yes, with the direction of counsel.

15 **EXAMINATION RESUMED BY MR. PARENTE:**

16 Q. Okay. And did you perform that analysis across the  
17 entire state?

18 **BY MR JONES:**

19 Objection; work product, attorney/client  
20 privilege. I need a moment to consult about whether  
21 he can provide an answer. Give us a second.

22 **BY MR. PARENTE:**

23 Okay.

24 (WHEREUPON, THERE WAS A PAUSE IN THE PROCEEDINGS.)

25 **BY MR. JONES:**

1 Mr. Parente, if you could ask him whether he  
2 remembers for what part of South Carolina he  
3 conducted the analysis, I'll permit him to answer.

4 **BY MR. PARENTE:**

5 Okay.

6 **EXAMINATION RESUMED BY MR. PARENTE:**

7 Q. Dr. Fifield, do you recall if your analysis was  
8 statewide or if it was -- or if it only included  
9 certain counties?

10 A. I don't recall whether or not it was statewide.

11 Q. Okay. Do you recall when you performed this  
12 analysis?

13 A. No, I do not.

14 Q. Okay. Do you recall if you performed this analysis  
15 prior to the release of the PL data?

16 A. Yeah, I don't recall if I ran an analysis prior to  
17 the release of the PL data.

18 Q. Okay. Do you recall if you ran that analysis prior  
19 to the filing of litigation on October 12th of '21?

20 A. I also can't recall if it was prior to October of  
21 '21.

22 Q. Okay. Did you share the results of that analysis  
23 with anyone outside of the ACLU?

24 A. Not that I can recall.

25 Q. Okay. So you don't recall sharing that with Dr.

1 Ruoff?

2 A. I did not share that analysis with that Dr. Ruoff.

3 Q. Do you remember what the results of your analysis  
4 were?

5 **BY MR. JONES:**

6 Objection; privilege, work product, First  
7 Amendment. I'm instructing the witness not to  
8 answer.

9 **EXAMINATION RESUMED BY MR. PARENTE:**

10 Q. Okay. Do you recall what format the results of that  
11 analysis were in? For example, a memo or an email;  
12 do you recall what the format was?

13 A. I believe it would have been in a separate document,  
14 so like a memo.

15 Q. Okay. Is that document one of the files that you  
16 copied from your ACLU computer to your personal  
17 computer?

18 A. I can't be sure.

19 Q. Okay. Would you be able to verify that if you  
20 looked at your personal computer? Would you be able  
21 to tell by the file name, for example?

22 A. Yes.

23 Q. All right. All right. I'm going to go to the next  
24 email. This is Exhibit 21. It is an email that's  
25 Bate stamped SCLWV\_SUB\_0033083.

1 A. As I said previously, not being a map drawer, I  
2 can't speak to the difficulty of drawing such a map.

3 Q. Okay. Who were the map drawers at the ACLU? And I  
4 just -- I mean map drawers generally, not  
5 specifically who drew these maps, because we've  
6 already talked about that. But who are map drawers  
7 at the ACLU?

8 A. So, there a couple of people with Maptitude training  
9 at the ACLU. Those would be Devin McCarthy and Alex  
10 Yurcaba.

11 Q. And could you just repeat that second name again? I  
12 think it cut out a little bit for me.

13 A. Yes. Alex Yurcaba.

14 Q. And would you mind spelling that last name if you're  
15 able to?

16 A. Y-U-R-C-A-B-A.

17 Q. And are Devin and Alex the only two at the ACLU you  
18 know have Maptitude training?

19 A. Yes, that are currently at the ACLU.

20 Q. Okay. What about former employees of the ACLU who  
21 would have had Maptitude training during the  
22 2020/2021 redistricting process?

23 A. So, that would have included Dr. Sanchez and Sarik  
24 Goyal.

25 Q. And if you're able to, would you be able to spell

1           that last name for me?

2           A.    G-O-Y-A-L.

3           Q.    And what was the first name again?

4           A.    Sarik, S-A-R-I-K.

5           Q.    Okay. Thank you. And so, your understanding is  
6           that these four individuals are the only four  
7           current or former ACLU employees that had Maptitude  
8           training during this redistricting cycle; is that  
9           correct?

10          **BY MR. JONES:**

11                   Objection; form. You can answer.

12          **WITNESS ANSWERS:**

13          A.    I can't speak to specific Maptitude training, but,  
14           yeah, I do believe they know the software.

15          **EXAMINATION RESUMED BY MR. PARENTE:**

16          Q.    Okay. You mentioned earlier that you used R to  
17           conduct some validation on the League of Women  
18           Voters map using a package called tidylog, I think  
19           you said, is that right?

20          A.    Again, I think, as I said previously, I can't be  
21           certain which map that was, whether or not it's the  
22           like common understanding of the League of Women  
23           Voters map. I did use tidylog to conduct  
24           validation.

25          Q.    Okay. Do you recall if you did a similar validation



***Jan L. Whitworth***

**Whitworth Court Reporting  
Post Office Box 551  
Roebuck, SC 29376**

August 19, 2022

Michael A. Parente, Esquire  
Nexsen Pruet, LLC  
1230 Main Street, Suite 700  
Columbia, South Carolina 29201

RE: Deposition of Benjamin Haber Fifield (In Re: Civil Action No. 3:21-cv-03302-JMC-TJH-RMG)

Dear Mr. Parente,

Enclosed you will find both the original and copy of the deposition of BENJAMIN HABER FIFIELD, taken the 15th day of August, 2022, in the above-referenced case.

As you may recall, the witness requested to read and sign his deposition. Therefore, by copy of this letter, I am emailing a copy of the transcript to the deponent, along with the signature page, errata sheet, and instructions for reading and signing.

Upon completion of the signature page and errata sheet, the original of these pages will be sealed under separate cover and forwarded to you with a copy. If the said pages are not completed within the thirty-day period or when required in court, the original deposition shall be considered complete with this letter in lieu of the signature page.

Very truly yours,

Timmi A. Parrish  
Whitworth Court Reporting

enclosures: original deposition, copy of deposition

**SIGNATURE PAGE**  
**Deposition of Benjamin Haber Fifield**  
**Date of deposition: 08/15/2022**  
**Civil Action No.: 3:21-cv-03302-JMC-TJH-RMG**

I do hereby certify that I have read the foregoing deposition given by me before Timmi A. Parrish, Notary Public for the state of South Carolina.

**PLEASE CIRCLE EITHER "A" OR "B".**

- (A) Said deposition is correct as is and requires no changes.
- (B) I desire that the changes attached hereto, described on the "Errata Sheet" be incorporated into said deposition.

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BENJAMIN HABER FIFIELD

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**ERRATA SHEET**  
**Deposition of Benjamin Haber Fifield**  
**Date of deposition: 08/14/2022**  
**Civil Action No.: 3:21-cv-03302-JMC-TJH-RMG**

PAGE	LINE	CHANGE AND REASON FOR CHANGE :
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**CERTIFICATE OF NOTARY PUBLIC  
CIVIL ACTION NO. 3:21-cv-03302-JMC-TJH-RMG**

I, TIMMI A. PARRISH, A NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA, DULY COMMISSIONED AND QUALIFIED AS SUCH, DO HEREBY CERTIFY THAT THE FOREGOING **212** PAGES REPRESENTS A TRUE AND ACCURATE TRANSCRIPT OF THE FOREGOING DEPOSITION OF **BENJAMIN HABER FIFIELD**, TAKEN ON THE 15TH DAY OF AUGUST, 2022.

THAT THE WITNESS WAS DULY PLACED UNDER OATH AND ADMONISHED TO SPEAK THE WHOLE TRUTH. THAT THE ORAL DEPOSITION WAS DULY TAKEN AND TRANSCRIBED AS TO THE QUESTIONS PROPOUNDED AND THE ANSWERS GIVEN.

THAT ALL THE OFFERED EXHIBITS, STIPULATIONS AND OBJECTIONS, IF ANY, INVOLVED IN THIS CASE ARE DULY ATTACHED OR INCLUDED HEREIN.

IN WITNESS WHEREOF, I HAVE SET MY HAND AND OFFICIAL SEAL THIS 19TH DAY OF AUGUST, 2022.

---

TIMMI A. PARRISH  
NOTARY PUBLIC FOR SOUTH CAROLINA  
MY COMMISSION EXPIRES: 5-29-2028